

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division

UNITED STATES OF AMERICA,)
Plaintiff,) CRIMINAL CASE NO.
v.) 2:11cr33
MOHAMMAD SAAILI SHIBIN,)
a/k/a "Khalif Ahmed Shabin,")
a/k/a "Mohammad Ali,")
a/k/a "Ali Jama,")
Defendant.)

TRANSCRIPT OF PROCEEDINGS
(Testimony of Sandeep Denghwal)

Norfolk, Virginia
April 20 and April 23, 2012

BEFORE: THE HONORABLE ROBERT G. DOUMAR,
United States District Judge, and a jury

APPEARANCES:

UNITED STATES ATTORNEY'S OFFICE
By: Joseph E. DePadilla, Esquire
 Benjamin L. Hatch, Esquire
 Brian J. Samuels, Esquire
 Paul Casey, Esquire
Assistant United States Attorneys
Counsel for the United States

ZOBY & BROCCOLETTI, P.C.
By: James O. Broccoletti, Esquire
Counsel for the Defendant

I N D E X

3	ON BEHALF OF THE GOVERNMENT:	Direct	Cross	Red.	Rec.
4	S. Denghwal	3	59	--	--

EXHIBIT TS

No.	Page
8	Government Exhibit No. 1-1 R 7
9	Government Exhibit No. 1-1 R 7
10	Government Exhibit No. 1-1 R 7
11	Government Exhibit No. 1-1 R 7
12	Government Exhibit No. 1-1 R 52
13	
14	
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S. Denghwal - Direct

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3 THE COURT: Who is your next witness?

4 MR. CASEY: Your Honor, the government would call
5 Sandeep Denghwal.

6 THE COURT: Just because I'm trying to push things
7 along, ladies and gentlemen, it doesn't mean I have an
8 opinion one way or another. I just want to move this case
9 along a little faster.

10 Do you need a translator here?

11 MR. CASEY: No, Your Honor.

12 THE COURT: Okay.

13 THE WITNESS: Good afternoon.

14 (The witness was administered the oath by the
15 clerk.)

16 SANDEEP DENGHWAL, called as a witness, having first
17 duly affirmed to tell the truth, testified as follows:

18 DIRECT EXAMINATION

19 BY MR. CASEY:

20 Q. Sir, could you please state your name?

21 A. Sandeep Denghwal.

22 Q. And what country are you from?

23 A. India.

24 Q. And for the benefit of the Court and for the jury I want
25 to ask you to speak slowly and keep your voice up, okay?

S. Denghwal - Direct

1 A. Okay.
2 Q. What is your first language?
3 A. Hindi.
4 Q. And you also speak English fluently?
5 A. Yeah.
6 Q. Are you married, sir?
7 A. Yes.
8 Q. How long have you been married?
9 A. Just one and a half months before.
10 Q. I'm sorry?
11 A. One and a half months before.
12 Q. So you've been married for one and a half months?
13 A. Yes.
14 Q. What do you do for a living?
15 A. I was working on ships and still am working on ships, so
16 I'm a seafarer.
17 Q. How long have you been in that profession?
18 A. Nine years, from last nine years.
19 Q. Do you have a specialty in that profession?
20 A. Pardon?
21 Q. Do you have a specific job within that profession?
22 A. Yeah. I was a motorman and all, and I just performed my
23 duties in engine room areas. So I'm actually a technical
24 person.
25 Q. So as a motorman and working in an engine room can you

S. Denghwal - Direct

1 tell us what your educational background is?

2 A. I complete my educations from India and then join some
3 marine courses in Mumbai at year of 2003, and last year I
4 finished my marine courses from New Zealand.

5 Q. Okay. In 2010 did you work on the Marida Marguerite?

6 A. Yes.

7 Q. And what specific -- were you a motorman on the Marida
8 Marguerite?

9 A. Yes.

10 Q. And what were your duties as a motorman on the Marida
11 Marguerite?

12 A. My duties? Watch keeping -- means maintenance of all the
13 machines, keeping us safe, watches in engine room -- and
14 maintaining the normal parameters of the running machines.

15 Q. When did you join the Marida Marguerite?

16 A. I joined on 3rd May, 2010.

17 Q. From what port did you join the Marida Marguerite?

18 A. Kandla, India.

19 Q. Is that on the West Coast of India?

20 A. Yes.

21 Q. And what is the body of water that port is on?

22 A. The next port?

23 Q. The body of water where that city is, is that the Indian
24 Ocean?

25 A. Yes.

S. Denghwal - Direct

1 Q. Okay. And the Gulf of Aden is to the west?

2 A. Yes.

3 Q. You indicated you were a motorman and you had
4 responsibilities. Did you spend a significant amount of time
5 in the engine room?

6 A. Yes.

7 Q. What was your work shift in the engine room?

8 A. It is near about 20 hours per day, from morning to night
9 and night to morning, also.

10 Q. I'd like to show you a series of photographs 1-1 R and
11 1-1 S, 1-1 T and 1-1 B.

12 A. This is our engine. This is engine room. This is Marida
13 Marguerite engine room, and the panel is showing the first
14 panel. This machine --

15 Q. Mr. Sandeep, for the benefit of the court reporter, she's
16 going to write down what you're saying and what I'm saying
17 and what the Judge is saying, so if you could speak a little
18 bit more slowly. And since you speak with a bit of an
19 accent, for the benefit of the jury if you could just speak a
20 little bit more slowly so everybody can understand.

21 A. Okay, sir.

22 Q. Let me ask you this question:

23 Now, these photographs, do they fairly and accurately
24 depict the engine room on the Marida Marguerite as it looked
25 in 2010?

S. Denghwal - Direct

1 A. Yes.

2 MR. CASEY: Your Honor, I would move for admission
3 of the Exhibits 1-1 R, 1-1 S, 1-1 T and 1-1 V.

4 THE COURT: 1-1 R, 1-1 S, 1-1 T and 1-1 V are hereby
5 admitted into evidence and may be published.

6 (The exhibits were admitted into evidence.)

7 BY MR. CASEY:

8 Q. Looking at 1-1 R --

9 THE COURT: First, let's identify them as they're
10 shown so we can say which is which. You were going to show
11 all four of them at first. They were admitted and published.
12 So we start with 1 R and we go to 1 S. 1 R --

13 MR. CASEY: Yes, Your Honor.

14 THE COURT: -- then the next one is 1 S --

15 MR. DEPADILLA: 1 S, Your Honor.

16 THE COURT: -- 1 T and 1 V, as in "Victor."

17 (The exhibits were published.)

18 BY MR. CASEY:

19 Q. Sir, I would like to show you Exhibit 1-1 R. Showing you
20 1-1 R, looking at the lower left-hand corner of the picture
21 there appears to be a control panel. Can you tell me what
22 this control panel is for?

23 A. Yes. This is the full panel, and this machinery actually
24 belongs to maintaining the temperature of the meat room, fish
25 room and vegetable room.

S. Denghwal - Direct

1 Q. And what is the normal temperature in the meat room?

2 A. Meat room is minus 17 degrees Celsius, and in Fahrenheit it's 0 to 5 Fahrenheit.

3 Q. So 0 to 5 degrees Fahrenheit?

4 A. Yes.

5 Q. Is that basically to keep the meat frozen during your
6 voyage?

7 A. Yes.

8 Q. If I could show you -- and, so, looking at 1-1 S, as you
9 move around to the right-hand side of the picture --

10 MR. DEPADILLA: That is 1-1 S.

11 MR. CASEY: I'm sorry. 1-1 R, please.

12 MR. DEPADILLA: 1 R?

13 MR. CASEY: Yes. Thank you.

14 BY MR. CASEY:

15 Q. Showing you 1-1 R, there appears to be a series of
16 windows on the right-hand side of the photograph.

17 A. Yes.

18 Q. Can you tell me what those photographs are -- I mean,
19 what those windows are?

20 A. This is our control room where we're supposed to actually
21 sit or we're supposed to keep a watch from this place,
22 because we have -- we have some machines -- we have some
23 monitors over there for our machines' parameters and all.

24 Q. Okay. The monitor is on the other side of the window --

S. Denghwal - Direct

1 is that correct -- or on this side of the window? You said
2 you had some monitors over there.

3 A. Yeah, monitor is inside, sir. This is actually -- you
4 can see it looks like a TV only with the parameters -- means
5 temperatures, pressures. Everything is flashing
6 continuously, and alarms is also acknowledged from this place
7 only.

8 THE COURT: All right. Let's move along.

9 BY MR. CASEY:

10 Q. Showing you 1-1 V, is this the inside of the control
11 room? Picture 1-1 V, is that the inside of the control room?

12 A. Yes, this is inside view of the control room.

13 Q. Is that where you spent a good portion of your time
14 working as a motorman on the Marida Marguerite?

15 A. Yes, sir.

16 Q. I want to show you in the lower left-hand corner there
17 appears to be a desk. Do you recall -- was this picture
18 taken after the Marida Marguerite was freed from its
19 hijacking in 2010?

20 A. I didn't get you, sir. Pardon?

21 Q. This is a photograph of the control room after the --
22 after you were released, after being held hostage for seven
23 months. Is that correct?

24 A. Yes.

25 Q. All right. The arrow in the lower left-hand corner, that

S. Denghwal - Direct

1 points at a desk. What was on that desk when you started
2 your voyage in May of 2010? What was on top of the desk?

3 A. The top of the desk is having some intercom connections,
4 and in that panel you are seeing the monitors which I am
5 actually telling about, the monitors and all. And there is
6 more back side -- you can see the engine control system was
7 also there.

8 Q. Okay. On the wooden desk in the lower left-hand
9 corner --

10 A. Yeah, on the wooden desk. On a wooden desk there is an
11 area -- a computer printer, and we had one computer inside to
12 maintain our records over there.

13 Q. All right. When you started your voyage in May, what
14 date did you join the Marida Marguerite on its voyage in May
15 of 2010?

16 A. I joined Marida Marguerite on 3rd of May, 2010.

17 Q. All right. And on that wooden desk was there a computer
18 and a computer monitor at the time?

19 A. Yes.

20 Q. Okay. Where did you --

21 MR. CASEY: We can "Escape" out. Thank you.

22 BY MR. CASEY:

23 Q. Where did you join the voyage, what port?

24 A. That was Kandla, India.

25 Q. All right. And directing your attention now to May 8,

S. Denghwal - Direct

1 2010 --

2 A. Yeah.

3 Q. -- where were you when you first became aware that the
4 Marida Marguerite was under attack and may be hijacked by
5 pirates?

6 A. At that time I was -- I was inside my cabin, and I was
7 just finished my duty. An alarm sound. Then after I rushed
8 to bridge. We accept duty posts on musters over there, that
9 bridge, and there we come to know a skiff boat is chasing our
10 vessel from starboard side -- means right-hand side, the back
11 side from the ship -- that this skiff is chasing us.

12 Q. How long -- from that time period in which you became
13 aware that you were under attack from a skiff how long was it
14 until pirates boarded the Marida Marguerite?

15 A. It's -- that skiff boat speed is so high, and the time is
16 totally about at 20 or 25 minutes the pirates were on board.

17 Q. And you were in the bridge. Is that correct?

18 A. Yes.

19 Q. Okay. Is that where you were when you first saw the
20 pirates?

21 A. Yes.

22 Q. Okay. Describe what happened when you first saw the
23 pirates on board at the bridge.

24 A. That is really totally strange and really very dangerous
25 scenario for all of us, not for me only. Because we never

S. Denghwal - Direct

1 expect that the pirates will hijack us or not, and when
2 pirates come on board we really prayed of God continuously to
3 please save our life and all. Because we don't know what was
4 their intention. Maybe they are going to kill us, or what
5 they are going to do with us we don't know. So at that time
6 our situation and other crew members' situations very bad and
7 very dangerous, also.

8 Q. Could you tell us, please, sir, what happened when the
9 pirates entered the bridge; what happened to you, where did
10 you go, where did they take you, that kind of thing.

11 A. Yeah. When pirates entered our ship from the outside of
12 the bridge they bang on the bridge windows with AK-47 guns
13 and all, and just by their body language only we know they
14 are saying that, "Open your doors; otherwise, we'll shoot
15 you," because the two pirates were continuously showing guns
16 from that windows to us.

17 And then our captain, Captain Makane, opened the
18 door for them. And when they come inside they just give two
19 or three punches in his face, very bad punches, and then give
20 like this -- like this thing I'll not forget in Somalia.
21 (Somalian word spoken)

22 I don't know what the meaning of this word is, but
23 now we come to know that these people are from Somalia and
24 they are the pirates only.

25 Q. All right, sir. Now, at that point or shortly thereafter

S. Denghwal - Direct

1 did the Marida Marguerite change course and head to the coast
2 of Somalia?

3 A. Yes. The pirate is having one small GPS equipment which
4 they have feed some position to Somalia, and they ordered our
5 captain to, "Change your course to Somalia."

6 Q. Now, you had work duties in the engine room. Is that
7 correct?

8 A. Yes, sir.

9 Q. Who did you -- up until the time you were hijacked --
10 prior to your hijacking, up until that time, who else worked
11 with you in the engine room?

12 A. I was work with my one shipmate -- the name of the
13 shipmate was Chirag Bahri -- another motorman and another
14 engineer. So we four people continuously working on that
15 period 12 hours; 12 hours for two person, and another
16 12 hours for the other two people. So that was our working
17 schedule with the peoples.

18 Q. So after the hijacking did that schedule change?

19 A. Before -- before -- when we are actually normal seafarer
20 that is not our job. This is not a normal working hours.
21 This is not our normal working hours. We used to work eight
22 hours, and we used to work four hours and then break and then
23 again four hours in a day. So this is our normal working
24 schedule, but after hijack we work because our life is
25 totally dependent on pirates only, and if we not follow their

S. Denghwal - Direct

1 orders they're going to kill us and torture and all. So
2 after hijack we used to perform third-hour watch at morning,
3 either evening or so, but 12 hours continuously per day.

4 Q. Now, from the time you were hijacked on May 8th until the
5 time that you anchored off of the coast of Somalia --

6 A. Yes, sir.

7 Q. -- near the City of Garaad were you able to work in the
8 engine room unsupervised by the pirates?

9 A. Actually, that -- really one strange is this one:

10 How we can explain them, because they don't know
11 English? They don't know anything, and if we're explaining
12 that we have to go down to look over machineries then these
13 people will understand differently. And from that day when
14 we hijacked the punches and kicks and all -- everything has
15 come on us, but in the meantime only we just explain them,
16 "Please permit us to go down to" -- "we have to go work,
17 because otherwise the ship will not sail and you people will
18 not" -- because if you don't follow everything that -- we are
19 not following their orders, so it is really very difficult
20 that we -- how we can explain these people who doesn't know
21 anything? And by the body language only and by signalling
22 only you can make them understand.

23 Q. Mr. Sandeep, did they allow you to work in the engine
24 room so you can get to the coast of Somalia, and were you
25 unsupervised when you were working in the engine room during

S. Denghwal - Direct

1 that time period?

2 A. Yes, sir.

3 Q. All right. During that time period was -- who did you
4 work for? Who was your supervising person? Who did you work
5 under on the Marida Marguerite?

6 A. In a normal situation I'm actually working under chief
7 engineer of the ship, but after hijack chief engineer also
8 cannot do anything because pirate is saying we have to redo
9 that thing. But we work under chief engineer, and the
10 pirates were in charge of our ship during the hijack period,
11 so...

12 Q. Okay. And the chief engineer is Oleg Dereglazov?

13 A. Yes.

14 Q. So were you able to hide things, food, rations, other
15 things in the engine room while you were working in that time
16 period, unsupervised by the pirates?

17 A. Yes.

18 Q. Okay. What types of things did you hide in the engine
19 room?

20 A. Sir, we hide the dry provisions -- means noodles, some
21 bread. We hide these things because chief engineer is an
22 experienced person, but because we know -- how many days we
23 have to be stay here we don't know, so we hide the food from
24 these pirates for our survival only.

25 Q. When you were at the City of Garaad or anchored off the

S. Denghwal - Direct

1 coast of Somalia who was the first -- who was the first
2 English-speaking Somali person to come aboard?

3 A. Mohammad Ali, Ali Jama.

4 Q. Okay. Was there a person that came aboard prior to Ali
5 Jama coming aboard?

6 A. Yeah, there was another person, but really I feel -- I
7 forget his name, but he --

8 Q. Let me ask you this:

9 How long after you anchored at Garaad did that first
10 English-speaking person whose name you don't recall -- how
11 long until he came aboard?

12 A. It's near about five or seven days or something else.

13 Q. How long -- or what happened when he came aboard? How
14 long did he stay?

15 A. He's come to our ship just to ransack, you know, just to
16 rob us, nothing else. But he knows English, and after
17 robbing -- when he robbed our things, our items, then he go,
18 and that time period is eight to ten hours, maximum.

19 Q. During that time period prior to the time that Ali Jama
20 came aboard, did the other pirates rob or take things from
21 the crew?

22 A. Yes.

23 Q. Did you have things taken from you?

24 A. Yes.

25 Q. What was taken from you?

S. Denghwal - Direct

1 A. My mobile, my clothes, my -- you know the clothes, my
2 dollars, everything. This is actually nothing, you know, but
3 they even take my religious pics. My personal pics also they
4 destroyed.

5 Q. Who is the second person who came aboard the Marida
6 Marguerite after it was anchored off the coast of Somalia who
7 spoke English fluently?

8 A. Fluently? That was -- the second person is Looyan. And
9 one more guy who is not fluently speaking, but Osman.

10 Q. And prior to that when did Ali Jama come aboard the
11 Marida Marguerite?

12 A. It's when we anchored in Garaad. He came on board five
13 or seven days after, like this.

14 Q. Okay. And can you describe that person? Can you
15 describe Ali Jama?

16 A. Yes.

17 Q. I want you to look around the courtroom and see if you
18 can see Ali Jama, the person you knew as Ali Jama, and see if
19 you recognize him.

20 A. Can I point him?

21 Q. Yes.

22 A. He's that person (indicating).

23 THE COURT: Let the record reflect --

24 THE WITNESS: Yes, he's that person in the middle.
25 He's wearing a Navy blue colored suit, a white shirt, also

S. Denghwal - Direct

1 white hair.

2 BY MR. CASEY:

3 Q. Thank you, Mr. Sandeep. When Mr. -- the person you knew
4 as Mr. Ali Jama, when he came aboard did he make any
5 statements to the crew that you remember when he first came
6 aboard?

7 A. Yes. His statement is, "I'm from NGO, and I'm come here
8 to protect your rights and all." But believe me -- believe
9 me, during that time there, that eight-month time there, I
10 feel he's not from NGO. No NGO? What NGO? Eight robbers --
11 eight robbers -- what do you call them? Eight robbers --
12 seven is robbers and one is -- he's also robber. He's also
13 pirate.

14 MR. BROCCOLETTI: Judge, this is not responsive to
15 the question. I'd ask the Court to strike that answer. The
16 question simply was, "What did he tell you?"

17 THE COURT: Technically, it isn't responsive in full
18 because he's representing what he believes it is. I'm not
19 sure about the eight robbers, whether the defendant spoke of
20 those. What the witness has indicated is his opinion of an
21 NGO, and that portion of the answer is not responsive as to
22 his opinion of the NGO, and, therefore, it is struck.

23 MR. CASEY: Thank you, Your Honor.

24 BY MR. CASEY:

25 Q. Now, during the seven and a half months or so that you

S. Denghwal - Direct

1 were held hostage how often did you see Mr. Ali Jama or see
2 the defendant on the ship?

3 A. Is daily. Is daily, because we have to eat. When we
4 wake up we see some Somalians, and in the meantime he's also
5 wandering here and there.

6 Q. Did you speak with Mr. Ali Jama, the defendant, over that
7 time?

8 A. Yes.

9 Q. About how many times would you speak with him over the
10 course of that seven and a half months?

11 A. See, it's a matter of life, and I didn't count how many
12 times the interaction between myself and Ali Jama, but most
13 of the times -- most of the times is interaction between
14 trying to understand -- trying to understand the pirates and
15 him also, means how can we operate our machines, how can we
16 tackle the situation down. And the second one is that
17 request, "Please don't torture," and all like these things,
18 that interaction. And I never count how many times.

19 Q. Did Mr. -- did the defendant ever tell you in your
20 conversations with him which NGO or nongovernmental
21 organization he supposedly represented?

22 A. Of course, no.

23 Q. Did you ever see any clothing or written material or
24 anything associated with a nongovernmental organization
25 during your eight months as a hostage?

S. Denghwal - Direct

1 A. No, sir.

2 Q. Did you ever talk with anyone on the phone associated
3 with any nongovernmental organization?

4 A. No, sir, no.

5 Q. Did the defendant ever give you any relief material such
6 as clothing from an NGO?

7 A. No.

8 Q. Did you ever see the defendant doing anything over that
9 seven-and-a-half-month period that might suggest that the
10 defendant was a journalist or a writer?

11 A. No.

12 Q. Taking notes, writing in a notepad?

13 A. No, sir.

14 Q. Did you ever see him looking at a computer?

15 A. Yes.

16 Q. What -- how many times would you see him looking at a
17 computer over that time period?

18 A. I -- this time, also, I never count how many times.
19 Actually, I didn't count, but most of the time he's having
20 his laptop, watching some movies and all, some porno or
21 whatever it is.

22 Q. I'm sorry. Some what?

23 A. Some porno movies.

24 Q. Pornography?

25 A. Yes.

S. Denghwal - Direct

1 Q. You mentioned that pirates stole personal items from the
2 crew. Did you ever see the defendant with any personal items
3 that belonged to crew members?

4 A. Yes, that laptop he is using, the things he's wearing and
5 all that belongs to crew only.

6 Q. Were you able to observe the defendant as he interacted
7 with other pirates during that seven-and-a-half-month time
8 period?

9 A. Pardon, sir?

10 Q. Were you able to observe the defendant as he communicated
11 or interacted with other pirates aboard the Marida Marguerite
12 during that seven-and-a-half-month time period?

13 A. Yes.

14 Q. Could you describe the interactions that he had? Did
15 they appear hostile? Did they appear friendly? Could you
16 describe?

17 A. The interaction between Ali Jama with the pirates is
18 really very friendly. They are chewing khat, that grass --
19 they're chewing that grass together, drink soft drinks and
20 smoke cigarettes, laughing, smiling, everything. It looks
21 totally friendly-friendly.

22 Q. Were you aware of where the defendant stayed during the
23 time, that seven-and-a-half-month period you were held
24 hostage?

25 A. The chief officer's cabin and sometimes in bridge also.

S. Denghwal - Direct

1 Q. Showing you photograph 1-1 C, if you would look at your
2 monitor, do you recognize the room in which the defendant is
3 laying down?

4 A. This room is chief officer's cabin, beside TV that --
5 actually, this TV also belongs ship's property -- and this is
6 the chief mate's chair you see, that official chair, and he's
7 lying over there.

8 Q. During this time period were either you or other crew
9 members asked to clean this room, clean this cabin?

10 A. Yes.

11 Q. Who asked you?

12 A. Actually, this room is cleaned by the steward of the
13 vessel and sometimes deckhands -- means that person work
14 under chief mate, the crew, they were supposed to clean this
15 room by order given by Shibin Ali.

16 Q. Shibin Ali is another name by which you knew the
17 defendant. Is that correct? You also knew the defendant as
18 Shibin Ali?

19 A. Yes.

20 Q. Okay. So how often did the defendant ask the crew from
21 the Marida Marguerite to clean his cabin?

22 A. Two days after, maybe three days, like this way.

23 Q. How regular did he ask -- how frequently did he ask crew
24 members to clean his cabin?

25 A. Like twice in a week -- twice in a week, like this. That

S. Denghwal - Direct

1 depends upon him only. Whatever he want he give order, and
2 they came in and that room is ready.

3 Q. In your conversations with the defendant did he tell you
4 about various languages that he spoke?

5 A. Yes.

6 Q. What languages did the defendant tell you that he spoke?

7 A. English, Italian, Somalian and sometimes he using Hindi
8 language words, also.

9 Q. Did he talk to you about Indian culture and things like
10 that and --

11 A. Yes.

12 Q. During the seven-and-a-half-month time period were there
13 other pirates who came aboard who appeared to hold important
14 positions in the pirate operation?

15 A. Pardon, sir?

16 Q. Were there important pirates that came aboard during that
17 time that you were held hostage?

18 A. Yes.

19 Q. How could you tell that these people -- these pirates
20 were important in the operation?

21 A. Because by their body language, by the pirates only.
22 They tell us, "This is very big pirate having so many things
23 in Somalia" and all so we'll come to know, okay, he's also a
24 big pirate. Not a big man, a big pirate.

25 Q. And when these individuals, these pirates, would come

S. Denghwal - Direct

1 aboard would they interact with the defendant?

2 A. Yes.

3 Q. How did the defendant and these important pirates get
4 along with each other?

5 A. I told you that the interaction between the others and
6 the big pirates is same; very friendly with Shibir Ali.

7 Q. Did Shibir Ali ever ask you for information about the
8 company, the shipping company?

9 A. Yes.

10 Q. Did you ever give him information?

11 A. No.

12 Q. Did he ask other individuals?

13 A. Yes.

14 Q. Who did he ask?

15 A. Sunse Pandey.

16 MR. BROCCOLETTI: I object unless he knows, he was
17 present during that conversation. I'm objecting unless he
18 was present for that conversation. If it was something told
19 to him it was hearsay.

20 THE COURT: Yes, if he overheard the conversation.

21 MR. BROCCOLETTI: Yes, yes.

22 BY MR. CASEY:

23 Q. Were you present when Shibir Ali would ask Mr. Pandey for
24 information?

25 A. Yes, I was there.

S. Denghwal - Direct

1 Q. All right. And did Mr. Pandey give information to
2 Mr. Shibir Ali?

3 A. I was actually living in a second officer room only. We
4 in crew supposed to live four rooms in a group, and so at
5 that time that Mr. Pandey is living with us he came and he
6 asked Mr. Pandey, "How much ships this company having," "What
7 you think," and all this thing. So that's why I know -- I
8 know these things. That's why I'm saying.

9 Q. And did Mr. Pandey give him the information?

10 A. Yes.

11 Q. What type of information did Mr. Pandey give to --

12 A. Means this company is having the ships, so many ships,
13 big orders, big money, and some \$2 billion company pay for
14 some oil spill and all like this information.

15 Q. Now, how was Mr. Pandey treated by Mr. Shibir Ali?

16 A. Very nice, very good.

17 Q. Now, you mentioned that you were under the supervision of
18 Chief Engineer Oleg Dereglazov prior to the hijacking. How
19 did the pirates treat the chief engineer?

20 A. For the chief engineer, really very bad. They always
21 think that chief engineer can do something against them. I
22 don't know why, but every time that any pirate, small pirate,
23 big pirate, or even Shibir Ali also, had already hard words
24 with chief engineer and torture, also, so many times torture
25 also chief engineer.

S. Denghwal - Direct

1 Q. During this time period what types of things did the
2 chief engineer do to help or protect you?

3 A. Chief engineer? Can you please -- I can't get you
4 properly, sir.

5 Q. Yes. During this time period what types of things did
6 the chief engineer do? What types of actions did the chief
7 engineer take to protect you?

8 A. Yes, because I already -- I -- because he's very
9 experienced man, and by his experience we learn so many
10 things; how we can run our machineries under different
11 conditions where you don't have any spare parts. Nothing is
12 there, but we have to run our machine. So by his experience
13 only, and he prepared us; "Don't think that this is one-day
14 or two-day job. Maybe we have to be here for a month, five
15 or six months. So treat and think that this is a war and we
16 have to win." So like this spirit he give, and he share like
17 this spirit to us. That's why we are here and we are
18 actually giving like this statement in front of you.

19 Q. I'd like to direct your attention now, if I could, to the
20 middle of August in 2010. Were you questioned by the
21 defendant, Shabin Ali, about a satellite phone?

22 A. Yes.

23 Q. Tell the jury what happened.

24 A. Sir, actually, in engine room when you have no spare
25 parts a long time -- because in Somalia no company -- how

S. Denghwal - Direct

1 company will provide spare parts and all in Somalia? So
2 water fountain where we're supposed to drink our water inside
3 the engine room is not working, was not working properly, was
4 not working, meaning it's not cooling and all. So we every
5 time go up to fill our water bottle -- because engine room
6 very hot. Like inside the temperature is 43 or 44 degrees
7 Celsius, so it's imperative that you have to drink that cold
8 water.

9 So when I go up at that time Shibin was sitting in
10 officers' mess room in a sofa with an awkward position,
11 meaning he's lying like a king over there. And at that time
12 he was totally drunk and chewing that grass, that khat. When
13 I was filling my water bottle at that time he asked me, "Hey,
14 why do you roam here and there? Why do you come?" Then I
15 feel his mood is being changed in a normal way so I just want
16 to ignore him. I said, "No, I'm just come over there only to
17 fill my water bottle." Then he says, "No, you come here for
18 making a phone call. A satellite connection is here." Then
19 I say, "No, I'm not come here for like this thing." Then he
20 stand up, very fastly stand up, and he grab my hair like this
21 way, you know, like this way, and he hold me and took me out
22 from that area. And behind two or three pirates was sitting
23 over there with their guns, and they're also chewing that
24 same khat, and he -- through his body language only he was
25 provoking that pirate that this boy, this Sandeep Denghwal,

S. Denghwal - Direct

1 came in officers' mess room to make a phone call in this
2 area. So he was provoking.

3 But I really request the pirates -- and I touch
4 their face -- "Please spare me. Spare me. Please don't do
5 this to me." By the grace of God only -- I was saved by the
6 grace of the God only, and then the pirate doesn't touch on
7 that day. They said, "Okay, you go. You just go and do your
8 duty, but don't come back." So that day I will not go in
9 officers' mess room for that water at all.

10 Q. I'd like to turn your attention to September 8 and
11 September 9th, 2010. During that time period did you have
12 any interaction with the defendant, Shibin Ali, and a pirate
13 named Budea?

14 A. Yes.

15 Q. Where were you at that time?

16 A. I was on engine room. And I was talking about that time,
17 nighttime, 2:00 or 3:00, something like this way --

18 Q. Let me stop you there for a minute.

19 MR. CASEY: If I could get 1-1 D, please.

20 BY MR. CASEY:

21 Q. Is this the room you were working on the evening of
22 September 8?

23 A. Yes, sir.

24 Q. Tell us what happened.

25 A. Shibin came with two or three pirates, and he standing

S. Denghwal - Direct

1 inside this room only. And he was asking -- first he asked
2 about that intercom connections, these connections. He asked
3 about these connections, "What is this connection? What
4 is" --

5 Q. I'm just going to stop you there. I'm going to draw an
6 arrow. Is that the area that you're talking about?

7 A. Yes. He asked what was this phone connections, what this
8 phone is supposed to -- what is the function of this phone.
9 Myself, we explained to him that this is intercom, this is
10 intercom, and then he said, "No, this is satellite
11 connection." And we said, "No, this is intercom. We can
12 make a connection inside of our ship. This phone is not
13 supposed to make a call outside the ship. This is intercom
14 only."

15 And then after he asked about that connection there
16 was -- now, in this pic the computer --

17 Q. Let me stop you there, sir. Was the computer -- I'm
18 showing you a second red arrow pointing to a wooden desk.

19 A. Yeah, the computer was on this desk only, and that night
20 only he asked about that computer, also; that, "You people,
21 you people continuously sending and making a connection
22 between the outer worlds with our parents, with our company."
23 Then we said, "No, this computer is just to make calls of our
24 normal routine jobs and all. This computer is not supposed
25 to do like these things." But he continuously asked like

S. Denghwal - Direct

1 these questions to us.

2 Q. All right. And after -- was he satisfied with your
3 answers about the computer and the intercom system?

4 A. No, he's not. He was not satisfied. He was saying that,
5 "You people" -- means myself and the other engineer -- "is
6 hiding something from us, and which you are hiding that
7 satellite connection, that Internet connection from us."
8 He's completely not satisfied with us.

9 Then after he removed that computer, also, and by
10 the meantime one pirate, a short pirate, he holding one iron
11 bar in his hand, and he directly bang on my thumb. And that
12 thumb is swole (sic) like this one, that much swell, you
13 know, and one week I can't work. I'm not supposed to work
14 because my thumb was not working properly, but work to do.
15 And the next week they torture me, also.

16 Q. All right. Let's talk about that.

17 After they confronted you about the computer and the
18 satellite phone on the evening of September 8th what happened
19 then?

20 A. When we answered him back, Shibin, said no satellite
21 connection, he continuously telling this to other pirates
22 also, and by his body language also he was provoking whatever
23 it is --

24 MR. BROCCOLETTI: I'm objecting to this continued
25 reference of provoking by body language. Again, we went over

S. Denghwal - Direct

1 this yesterday, and I'm objecting to that.

2 THE COURT: Yesterday is one thing; today is
3 another. In the meantime I checked, and this is a layperson;
4 he can testify about a lot of things that laypeople
5 understand. We judge constantly.

6 For instance, a layperson can say someone is drunk
7 in the federal court. He can't in the state court. So,
8 consequently, as a layperson we experience things and we see
9 what people do, and by virtue of what people do we can make
10 conclusions. And, therefore, a part of that is body
11 language, and especially as to drunkenness. And it's
12 entirely different in the federal court than from the state
13 court.

14 Let's move along. Your objection is overruled.

15 BY MR. CASEY:

16 Q. Mr. Sandeep, after you -- tell us what happened as you
17 observed the defendant Shabin Ali interacting with pirate
18 Budea and the other pirates. What happened after that
19 interaction?

20 A. That interactions -- he was not satisfied. Other pirate
21 member also not satisfied. And he also removed the
22 computers. Our one small thing was modem. He removed that
23 thing from this table, and then he configured with the other
24 two or three pirates only. So he configured, and they
25 decided to break our duty only -- means midnight or 2:00 or

S. Denghwal - Direct

1 3:00 at that time. So he tell us to, "Break your duty now.
2 Now you go up and take some rest." What rest? The next day
3 that rest just comes to our torture only. That was not our
4 rest.

5 And I want to say you one thing --

6 Q. Hold on, Mr. Sandeep. I will ask you the questions, and
7 if you could just answer my questions that would be the best
8 way, probably the easiest way, to get through this, okay?

9 A. Yes, sir.

10 Q. So you were taken up to your cabin. Who was in your
11 cabin with you at that time?

12 A. So at that time myself and Chirag Bahri came inside that
13 cabin.

14 Q. During that time period that you were in that cabin could
15 you hear noises throughout the ship?

16 A. Pardon, sir?

17 Q. During that time that you were in the cabin could you
18 hear other noises throughout the ship, other crew members?

19 A. The noise is always the Somalian noise, you know. This
20 September is really Black September for us. We never, ever
21 had a full September, and they tortured our chief engineer,
22 our captain, our second engineer, our chief officer very
23 badly. But I never heard like these things, but other crew
24 members heard. They are crying. They are literally praying
25 to God, "Please, please help us." Like these things. And

S. Denghwal - Direct

1 they are just beating them like animals.

2 Q. Mr. Sandeep, if I can -- we're going to focus on what
3 happened to you. Stay with me, please.

4 After you were in your room did you develop a plan
5 with Mr. Chirag Bahri?

6 A. Yes.

7 Q. What was the plan?

8 A. Actually, we know that these people will not leave us
9 like this way. We know anyway, and we know very well this is
10 the intention of a human, this is our natural intention, you
11 know that who is your friend and who is your enemy, you know.
12 And there is no meaning; that the person has to do some bad
13 things to you and then he become enemies. No, my intention
14 only you will come to know.

15 I made a plan with Chirag Bahri that at any cost any
16 torture that they give us we'll not say anything. We'll not
17 commit any wrong facts or whatnot. We'll always say the
18 truth. What knowledge we have we'll just say like this way,
19 like this plan we made with each other.

20 Q. Okay. Now, when did you next see the pirates?

21 A. Pardon, sir?

22 Q. When did you next see the pirates?

23 A. The next thing comes from pirates, I -- three or four
24 pirates come our cabin in my room and they kick me because
25 the phone line -- after the breaking duty you can understand

1 that night I cannot sleep, so I was just laying on the
2 ground, on the floor. And so then the pirates came, and they
3 just start kicking me. And the other person, Chirag Bahri,
4 they start kicking. And they just grab us by our collar and
5 just say, "Bridge, bridge" and then we know they are just
6 taking us on bridge.

7 Q. And did you go up to the bridge?

8 A. Yes, sir.

9 Q. Okay. Did they walk you through the bridge?

10 A. Yes, sir.

11 MR. CASEY: If I could get 1-1 B please.

12 MR. DEPADILLA: B as in "boy"?

13 THE COURT: It is now 4:30, and we're going to stop.
14 I told the jury we're going to go from 9:30 to 4:30, and
15 we're going from 9:30 to 4:30.

16 Everyone please rise while the jury retires. We'll
17 come back Monday at 9:30, if that's agreeable with the jury.

18 (The jury withdrew from the courtroom.)

19 THE COURT: In ruling on your objection it's Rule
20 703. I didn't mention that, Mr. Broccoletti. It depends
21 upon the manner in which the person is testifying, and I
22 didn't want to go into much detail about that. So a lay
23 witness can testify as to a lot of things that ordinary
24 people would observe at any time, explaining their condition
25 at that time.

S. Denghwal - Direct

1 All right. We'll recess until 9:30 Monday morning.
2 You're instructed, sir, not to discuss your
3 testimony with anyone until we come back to the courtroom.
4 Thank you very much.

5 THE WITNESS: Yes, sir.

6 THE COURT: So we'll recess until 9:30 Monday
7 morning.

8 (The hearing adjourned at 4:32 p.m. on April 20,
9 2012, and reconvened at 9:30 a.m. on April 23, 2012, as
10 follows:)

11 (The roll was called, and the proceedings resumed as
12 follows:)

13 THE CLERK: Your Honor, there are 14 jurors present.

14 THE COURT: Mr. DePadilla, are you ready to proceed?

15 MR. DEPADILLA: Yes, Your Honor, we are. With the
16 Court's permission, we would call Sandeep Denghwal to the
17 stand.

18 THE COURT: All right. You are reminded you're
19 still under affirmation, Mr. Denghwal -- or oath, as the case
20 may be. You may resume the stand.

21 SANDEEP DENGHWAL, the witness on the stand at the
22 time of adjournment on April 20, 2012, testified further as
23 follows:

24 DIRECT EXAMINATION (Continuing)
25 BY MR. CASEY:

S. Denghwal - Direct

1 Q. Good morning, Mr. Denghwal. I think when we left off
2 Friday afternoon you were telling us about the morning of
3 September 9th, 2010.

4 A. Yes, sir.

5 Q. Can you tell us how you were woken up?

6 A. I was actually sleeping in my cabin only. At that time
7 three or four pirates came in my cabin, and they directly
8 kicked on me -- and other mate's name was Chirag Bahri --
9 started kicking and punching. And we don't know what they
10 were discussing between them. We don't because they were
11 continuously talking in Somalian language. And then they
12 showed up a finger, "Go up, up" -- means this is a clear sign
13 you have to go on bridge. So we just walked with them, and
14 between this thing they continuously kicking us and punching
15 us, also.

16 And by the meantime when we were on bridge. At that
17 time the situation, the scenario, is --

18 Q. Mr. Sandeep, let me stop you there.

19 For the benefit of the jury, if you could just move
20 that microphone a little bit away from your mouth it might be
21 a little bit easier. Maybe sit back just a little bit.

22 A. Yes, sir.

23 Q. So do you recall who the pirates were that took you up to
24 the bridge?

25 A. Yeah. I remember the name of one or two pirates. The

S. Denghwal - Direct

1 first pirate name was Budea. The other one is Nu. The third
2 one is Ali. And there are actually -- there were actually
3 three or four guys, but only I remember the name of them. So
4 after when I reach --

5 Q. Excuse me, Mr. Sandeep. Let me ask you -- the defendant
6 at that time, he didn't come down to your cabin to bring you
7 up to the bridge?

8 A. No.

9 Q. All right. Once you got up to the bridge and you walked
10 through the bridge where were you headed? Where did they
11 take you?

12 A. They ordered me, "You have to go to the starboard side of
13 the vessel" -- means the right-hand side of the vessel.
14 There was one door, so I just --

15 Q. Excuse me. So did you have to cut through the bridge to
16 get to the starboard side outside?

17 A. Yes, sir.

18 Q. As you cut through the bridge did you see the defendant?

19 A. Yes. Shibin was sitting over there only in the back, but
20 I have no time to interact with him because they were
21 continuously beating and torturing us. And we are just
22 begging to them, "Please, please, please don't do this."

23 Q. Okay. Thank you, Mr. Denghwal.

24 MR. CASEY: Could I get 1-1 B, please.

25 BY MR. CASEY:

S. Denghwal - Direct

1 Q. I'm going to show you what's already been admitted into
2 evidence as 1-1 B. Can you look at your monitor?

3 Is that the bridge?

4 A. No, sir, nothing is actually showing over here.

5 THE COURT: Check that out, Ms. Baxter.

6 THE CLERK: Yes, sir. It is showing all video on.

7 (There was a pause in the proceedings.)

8 THE COURT: Is it appearing now, ladies and
9 gentlemen?

10 (The members of the jury indicated an affirmative
11 response.)

12 THE COURT: All right.

13 MR. DEPADILLA: Ms. Baxter, it's not on our screens,
14 either, or the gallery's.

15 THE CLERK: You just have to turn them on.
16 Everything up here is indicating that --

17 THE COURT: Maybe over the weekend somebody
18 unplugged the plugs.

19 THE CLERK: Just turn on the screen at the bottom.

20 THE COURT: Ms. Baxter, would you go down and --

21 MR. BROCCOLETTI: I got it.

22 MR. DEPADILLA: Have you got it?

23 MR. BROCCOLETTI: I've got it.

24 THE COURT: We need somebody who understands these
25 things. I sure don't. My wife says we need a teen-ager.

S. Denghwal - Direct

1 That's what we need.

2 (There was a pause in the proceedings.)

3 THE CLERK: I'll call IT.

4 MR. CASEY: Can the jury see it?

5 THE CLERK: Yes, the jury's is on. You guys' are
6 on. Mr. Denghwal's is on.

7 Do I need to call IT?

8 THE COURT: Still not working?

9 THE CLERK: We can't find the power.

10 MR. DEPADILLA: Yep.

11 THE CLERK: Got it? We're ready to go.

12 THE COURT: Go ahead. It reminds me of that story
13 about screwing in a light bulb.

14 Go ahead.

15 MR. CASEY: Thank you.

16 BY MR. CASEY:

17 Q. Showing you Exhibit 1-1 B that's already been admitted
18 into evidence, is that the bridge? Is that the spot which
19 you walked through?

20 A. Yes, sir, this is all the bridge, and from this way --
21 the three monitors are showing from this way. They took me
22 out the other way.

23 Q. I'm going to ask if you would refrain from touching the
24 screen itself, okay?

25 A. Okay, sir.

S. Denghwal - Direct

1 Q. So did they take you through this corridor out the door
2 in the middle screen?

3 A. Yes, sir.

4 Q. Is that the arrow that you --

5 A. Yes, sir.

6 Q. Is that arrow pointing out the door that you went?

7 A. Exactly.

8 Q. And where was Shibin in 1-1 B?

9 A. Shibin was sitting on the back side -- means you can --
10 in the right-hand side there is one place where the satellite
11 connection was there, so he was arranged back there, and he
12 was sitting over there.

13 Q. Showing you the arrow that's over on the right?

14 A. Yes, sir, exactly.

15 Q. That's where Mr. Shibin was? All right.

16 MR. CASEY: Can I get 1-1 D, as in "delta," please?

17 BY MR. CASEY:

18 Q. Looking at the screen now, on the left-hand side is
19 Exhibit 1-1 B, as in "bravo," and on the right-hand side is
20 1-1 D, as in "delta."

21 A. Yes, sir.

22 Q. Looking at the screen, the right-hand side, 1-1 D, what
23 is that a picture of?

24 A. That place is actually part of this one. The
25 communication system is there, there is a satellite phone

S. Denghwal - Direct

1 there you can see, and at that time he was sitting over here.

2 Q. So is 1-1 D the spot where defendant Shabin was sitting
3 when you were taken through the -- taken through the bridge
4 and out the door?

5 A. Yes, sir.

6 Q. All right. Tell us what happened when you were taken out
7 through that door. Did you go to the right or to the left?

8 A. Then we go right side, means back side of the ship.

9 Q. Okay.

10 A. We go right side, back side of the ship, and they kept my
11 one other friend, Mr. Chirag Bahri. First they tortured in
12 one place, and then they tied me on a more back side.

13 Q. Where they stopped you outside on the bridge, how far
14 were you from where defendant Shabin was?

15 A. The distance was near about five to seven feet.

16 Q. Five to seven feet?

17 A. Yes. Yes, sir.

18 Q. Tell us what happened to you, sir.

19 A. That day I will never, ever forget in my whole life, in
20 my entire life. That was very horrific for me.

21 First they took me out -- they took me out, and they
22 just removed my pants first. And really at that time I not
23 know what these people now going to do with me. And then
24 they remove my underwears, and then with a cable tie, one
25 cable tie, they tied my genitals. And when I cry and when I

S. Denghwal - Direct

1 scream and when I beg for enough then they tied more. And
2 they tied like this two times.

3 Then I stop crying. I said, if I cry and if I beg
4 in front of them they will more tie and I will definitely
5 lose my life. And after that -- and after that these people
6 just keep me from beside and just tied my hands like this
7 with a cable tie, with a nylon rope, and with my two legs all
8 together and threw me on a -- this one -- this deck surface,
9 and they tied me like this one and then full tied with the
10 full body and in the meantime my genitals also tied. And I
11 was continuously begging in front of all pirates, "Please
12 leave me, please leave me," but these people are really
13 uncivilized people. You know, they don't know how to treat
14 other humans, and they don't know how to...

15 Q. Mr. Denghwal, after they tied your hands behind your back
16 and they tied your feet and pulled them back did they tie
17 your hands and your feet together?

18 A. Sir, I can show you the position how they tied me.

19 MR. CASEY: With the Court's permission, Your Honor.

20 THE COURT: I don't think it's necessary. Let's
21 move along.

22 MR. CASEY: Okay.

23 BY MR. CASEY:

24 Q. And where did they put you?

25 A. On the deck, on the open deck.

S. Denghwal - Direct

1 Q. Were you laying on your stomach?

2 A. Yes, on my stomach (indicating).

3 Q. Okay. How long --

4 THE COURT: Were your genitals still tied?

5 THE WITNESS: Yes, sir.

6 BY MR. CASEY:

7 Q. How long were your genitals tied?

8 A. Sir, the genitals -- they were tied near about half an
9 hour, and after half an hour they removed that cable tie
10 around my genitals with the help of sharp blade. They cut
11 that plastic cable tie with the help of a sharp knife. And
12 by the pressure by the genitals -- they squeeze my genitals,
13 and by the pressure I get urinated also on myself. I get
14 urinated also. And I continuously pray to the Lord, "Please
15 save me, please."

16 Q. And with the help of the sharp knife they cut the tie,
17 and you urinated. Where did you urinate? Did you urinate
18 all over yourself?

19 A. Yes, sir. In this position I wetted, and I wet full this
20 way (indicating). My position was that way, and they just
21 bang me here and there with their kicks -- with their kicks.

22 Q. Sir, in order to remove the cable tie from your genitals
23 what position did they have to put you in? You told us you
24 were laying on your stomach.

25 A. Yes.

S. Denghwal - Direct

1 Q. And then --

2 A. My position was like that way, and then from a kick they
3 put me on this side, like that way, and then they bring some
4 sharp blade knife and they cut that cable tie. And in the
5 meantime I just was totally -- I can't -- how can I explain
6 them, you know? How can I explain? These peoples doesn't
7 know anything, sir.

8 Q. After the cable ties were removed what position were you
9 put in?

10 A. Then they again kicked me on the same side, same
11 position, like that way (indicating).

12 Q. Are you familiar with the term "hogtied"? Is that a term
13 you're familiar with?

14 A. No, sir.

15 Q. Okay. So how long were you laying on your stomach with
16 your hands tied behind your back and your feet tied behind
17 your back after they removed the cable tie?

18 A. Sir, two, two and a half hours.

19 Q. What happened after two to two and a half hours?

20 A. Then pirates came, and they opened that cable tie from my
21 hands, from my legs. They opened that nylon rope, also,
22 and by that time my situation -- I can't stand, you know,
23 properly. I cannot stand it. I cannot stand it because they
24 tied my genitals and my hands, and my nerves in my hands and
25 my foot, too, was paining, and I was just -- I cannot stand

S. Denghwal - Direct

1 it.

2 And by the meantime these pirates told me like this:
3 "Stand up. Stand up. You have to stand." And I said, "I
4 cannot stand. How can I stand? How can I stand?" And then
5 by the meantime they start giving me punches, start punches,
6 and then they grab me like this way (indicating) and took me
7 inside the bridge.

8 Q. Where did --

9 A. Like this way (indicating).

10 Q. Where did they take you?

11 A. Inside the bridge.

12 Q. Where did you go?

13 A. Inside the bridge in this position where it's showing.

14 Q. Who did they take you to see?

15 A. Shibin Ali was there. Shibin Ali was there. Now they
16 want to interrogate me. They want answers from me after they
17 use torture.

18 Q. So after you were picked up and you were taken in to
19 defendant Shibin Ali what happened then?

20 A. I explained him that I was suffering a lot, I was
21 paining. "Please, please explain these people. And for you,
22 also, I'm not able to" -- "How can I talk to you?" And so
23 then --

24 Q. What position was the defendant Shibin Ali in?

25 A. Shibin Ali was sitting in this bed only.

S. Denghwal - Direct

1 Q. On the mattress?

2 A. This is not mattress, this is bed.

3 Q. When you were brought in, where were you placed?

4 A. Sir, this side (indicating).

5 Q. Is it to the left of 1-1 D?

6 A. My left.

7 Q. Okay. You weren't on the mattress. Is that correct?

8 A. Yes, sir.

9 Q. You were on the floor?

10 A. Yes.

11 Q. Were you standing, or what happened to you?

12 A. No, no, no. At that time my situation -- I cannot stand
properly to my situation. I was --

14 Q. I'm sorry, I didn't hear that. Could you repeat that?

15 A. My situation was not one where I can stand on my feet, so
in the meantime he's saying me, "Stand properly, stand
properly." Then I explain, "They tortured me a lot, they
tied my genitals." I explained him, but he continuously say,
"Stand properly."

20 Q. So did you stand, or did you fall, or what was your
position?

22 A. No, first I stand, and then I just like this -- fell
down.

24 Q. Okay. Did you fall down on your side or your knees or --

25 A. Yes, sir, like this knees. And then I sit on my knees

S. Denghwal - Direct

1 like that way (indicating).

2 Q. Okay. And so who interrogated you?

3 A. He interrogated me.

4 Q. Who is "he"?

5 A. Who "he"? Shibin. He interrogated me. He asked me,
6 "How many Internet connections you have?"

7 Q. What did you respond?

8 A. I said what I know. I know only two satellite
9 connections on board. What knowledge I have, I know only
10 two. One is in the master of the vessel's cabin, and the
11 second on the bridge, that same phone. But he was
12 continuously asking me, "No, in your ship you have more
13 satellite connections." I said, "How can I tell you if I do
14 not know? How can I tell you?" Then he said, "No, if you
15 are not going to tell me, if you are not going to tell me,
16 then we'll torture you more. We'll torture you more." I
17 said, "Please, for God's sake, please stop this thing. What
18 I know I already commit. I already told you that only two
19 satellite connections in my knowledge. What I know I told
20 you." Then he said, "If you are not going to commit this
21 thing then I show you who am I."

22 Q. Who said that to you?

23 A. He. He only say to me now "Who am I." He only say to
24 me.

25 Q. During that interrogation was the defendant holding

S. Denghwal - Direct

1 anything in his hand?

2 A. He's having one book, one book in his hand. He's
3 continuously showing me, and he's actually trying to show me
4 that he knows each and every thing. And he's saying, "I know
5 in this book. I know that there is five satellite
6 connections on board the ship. Now you tell me." I said, "I
7 don't know. How can I tell you if I don't know? How can I
8 tell you? Can you please tell me how can I tell you?" Then
9 he's continuously asking me like this thing, and then my
10 reply is, "If you know each and every thing then please go
11 and search it by your own way, but please stop this torture.
12 What I know I already told you. I don't know how many
13 satellite connections and all on our ship does it have or not
14 have. I don't know. What I know I told you."

15 But he was continuously -- at that time he was
16 continuously, you know, laughing also, smiling also. He was
17 actually laughing about my pain and my sufferings. He was
18 continuously laughing and smiling by the meantime.

19 Q. Did he -- did the defendant notice that your shirt was
20 wet?

21 A. Yes.

22 Q. How do you know that?

23 A. When I entered the bridge I explain my full situation to
24 him, full situation; that they tied my genitals, they tied my
25 hands and all, I'm not able to stand. And he asked me, "How

S. Denghwal - Direct

1 you can get wet?" I said, "I get urinated by my own self
2 because they tie my genitals and by this pressure only."
3 But, you know, there is no mercy. No mercy, nothing.
4 Nothing was there, you know, nothing.

5 Q. Sir, what was his reaction when you told him that you had
6 urinated on yourself and that's why your shirt was wet? What
7 reaction did he give you?

8 A. What reaction he can give me? Nothing. What reaction he
9 can give me? He just say, "Stand properly." How can I
10 stand? How can I sit? And then he's actually on cushions.
11 I said, "I already told you." But he's asking continuously,
12 and then he said to me, "I will torture you again. I will
13 tell these people and then torture you again."

14 Q. Sir, after you were interrogated by the defendant where
15 were you taken?

16 A. After that one then pirates knows that I don't know
17 anything. What I know I already explained. Then pirates
18 again grabbed my -- this thing and tell me, "Go down, go
19 down" -- means I can understand by my brain they are saying
20 to go down. Then I go with the one pirate, and when I reach
21 inside my cabin I just fall down on the floor. Because my
22 situation was really very pathetic situation, very pathetic.

23 Q. Sir, after September 9 did your sleeping conditions
24 change? Were you moved?

25 A. Yes, sir. After one or one and a half hours again

S. Denghwal - Direct

1 pirates came, and then we think, oh, my God, now maybe
2 they're going to torture us again. But they said, "No, no,
3 all crew go up bridge, all crew go up on bridge" -- means no
4 more of this cabin, no more this room. "Now you have to all
5 sleep together with the captain, first engineer, second
6 engineer and chief officer."

7 Q. Were you still allowed into the engine room doing your
8 duties working in the engine room?

9 A. Yes, sir. Yes, sir. There has to be allowed; otherwise,
10 they don't have any options. They don't have any options.
11 They want some slave work. They want some slaves to work.
12 They want some slaves to work; otherwise, if they don't
13 permit us then their good life will be finished. Who will
14 run the AC? Who will produce the electricity? They want
15 these things. They want us as slaves.

16 Q. Prior to September 9, prior to the torture in the first
17 week of September through September 9th, were you allowed to
18 use the bathroom and other facilities?

19 A. Sir, before that September 9 and all that remaining --
20 the rest of the crew, the 18 crews, can take the bathroom and
21 all inside their rooms, but after this that is all. The 9th
22 of September they just keep all crew individually. And on
23 that time we used to use only one toilet with the Somalians,
24 and, you know, you have to finish your toilets, your
25 routines, within one minute. If you're not finished under

S. Denghwal - Direct

1 the one minute these people will start banging on the door,
2 and when you come out -- when you come out the door they will
3 directly hit you, punch you also.

4 Q. All right. Was there a little space in the engine room
5 where you and other crew members had to use the bathroom, a
6 bilge, that kind of area?

7 A. Yes, sir, because after this --

8 Q. If I can ask you this -- just hold on for one second.

9 MR. CASEY: Madam Clerk, can I ask you to unpublish,
10 please.

11 THE CLERK: Yes, sir.

12 BY MR. CASEY:

13 Q. I'd like to show you what's been identified as Government
14 Exhibit 1-1 U. Do you recognize 1-1 U?

15 A. Sir, this is our -- this time we are supposed to be
16 collecting a sludge water -- means dirty water with some
17 content of oil.

18 Q. Let me just interrupt you.

19 Is that a photograph of the area in the engine room
20 as it looked back in the fall of 2010?

21 A. Sir, I can't --

22 Q. Is that a photo of the bilge area in the engine room?

23 A. No, it is not forward part, it is back part of --

24 Q. All right. But that's the area in the engine room
25 that --

S. Denghwal - Direct

1 A. Yes, sir, inside the engine room and on the bottom one.

2 It's on the bottom side of the engine room.

3 Q. Thank you.

4 MR. CASEY: I would offer 1-1 U at this time.

5 THE COURT: 1-1 U is received in evidence. You may
6 publish it.

7 MR. CASEY: Thank you, Your Honor.

8 (The exhibit was admitted into evidence.)

9 BY MR. CASEY:

10 Q. Okay, sir. Can you tell us what this -- the usual
11 purpose for this area is?

12 A. This is our bilge area. This is our bilge places, where
13 the dirty water and the sludge oil will be collected. And
14 inside that tank -- this tank is not supposed to be used like
15 this. The tank is supposed to collect the sludge water
16 inside, the dirty water, the dirty oil and such like that.
17 And we can pump it out, but this tank is not supposed to be
18 used as a toilet. But in Somalia we used this tank for our
19 toilet because pirates not permit us to go -- to come out of
20 the engine room and use our accommodation toilets.

21 And we request him only -- we request him only that,
22 "Please allow us. Please allow us. We can use the outside
23 toilets for our daily routines." But he said, "No. If you
24 come we'll kill you." Not, "I'll kill you," but, "We'll kill
25 you," "We'll kill you directly."

S. Denghwal - Direct

1 Q. Okay, sir. Thank you.

2 I'd like to direct your attention now to mid
3 September. Did you meet a pirate named Leon or Looyan?

4 A. Yes, yes.

5 Q. All right. What was his role in the pirate operation?

6 A. He played the second negotiator role on Marida
7 Marguerite.

8 Q. How did defendant Shabin's role change once he came on
9 board?

10 A. Shabin got de-promoted, and he used to do guard duty and
11 all. But personally I don't know about this tactics, the
12 pirate tactics and all, but he was de-promoted.

13 Q. Okay. So after the defendant was demoted what role did
14 the defendant play?

15 A. He was continuously sitting some other places and
16 guarding, guarding with guns and all.

17 Q. What kind of guns did you see him with?

18 A. Yeah, I know the AK-47, AK-47s.

19 Q. Okay. And how often did you see him with an AK-47
20 firearm?

21 A. Sir, generally my duty was in the engine room, and then I
22 go up for sleep. But some occasions I'll see with the guns
23 and all and I have seen him with that gun interaction.

24 Q. All right. Let's talk about that interaction. I'd like
25 to turn your attention to the end of September. Did you have

S. Denghwal - Direct

1 any conversation with defendant Shabin about leaks in the
2 water system?

3 A. Yes, yes.

4 Q. Describe that interaction with defendant Shabin.

5 A. When I was on upper deck, upper deck, the defendant
6 Shabin was sitting on the outside of that area. He was
7 sitting outside. He was sitting on a seat with khat and all.
8 And one gun, AK-47, is here, only here. Okay? Then he call
9 us and he find out -- maybe pirates find some leaks in pump
10 room, and then he asked us about the leaks: "Why you not
11 directly find these leaks and all? These should be
12 rectified."

13 Then my explanation to him, "We are not three
14 peoples over there, we are but two people. If you find it
15 you can inform us, and we'll go over there. Because we have
16 to get our permission from you, and we are not supposed to
17 come out of the area unless you tell us to. You told us if
18 we come out that your people will kill us. How can we come
19 out?"

20 Then he said, "You have to rectify this leak as soon
21 as possible; otherwise, I will show you." Then he hold that
22 gun and he pointed that gun on my head.

23 Q. And what did he say?

24 A. "I'll show you. You have to rectify. You have to
25 rectify this leak."

S. Denghwal - Direct

1 Q. What did you do following that?

2 A. Then we again request him, "Please don't do this. Give
3 us some time. We'll rectify it."

4 Q. Were you able to fix the leak or -- you were chief
5 engineer?

6 A. Yes, sir. Yes, sir. Then we'll proceed for the
7 rectifications and all afterwards.

8 Q. Sometime in October do you recall whether defendant
9 Shibin returned as negotiator?

10 A. Pardon, sir?

11 Q. Sometime into October do you recall defendant Shibin
12 returning as negotiator?

13 A. Yes.

14 Q. And was that for a brief period of time? Was that for a
15 short period of time?

16 A. Sir, what's "short period"? He was with us full time
17 during that period. What's short period? Actually, that is
18 maybe pirate technique. We don't know. The de-promotion,
19 this negotiator, that negotiator, they all are the same.
20 They all are the same.

21 Q. All right. Let me turn you to December now.

22 Beginning in December -- who finished the
23 negotiations for the pirates?

24 A. He finished. What our knowledge --

25 Q. Who "he"?

S. Denghwal - Direct

1 A. He. He is the only one who finished the negotiations.

2 Q. The defendant?

3 A. Yeah, Shabin.

4 Q. All right. How do you know that?

5 A. By that his telephone calls and all, and continuously he
6 was discussing with the master of the vessel and discussing
7 with the rest of the crew members and discussing with us,
8 also. Because we are continuously asking him, "When will we
9 go home? When will we go home?" So we know the last
10 negotiations was by him only.

11 Q. In December, after the ransom had been agreed to and the
12 money -- during the process where the money was being
13 arranged to be delivered, did defendant Shabin give a speech
14 to the crew?

15 A. At that time I was not there, I was on my duty, but the
16 rest of the crew members --

17 Q. That's okay. We can ask other members. That's fine.

18 A. Okay, then.

19 Q. All right. Did you see -- after the money was dropped
20 and distributed among the pirates in late December did you
21 see defendant Shabin carrying anything after the money was
22 distributed?

23 A. When he was leaving the ship, at that time I saw one bag
24 with him. And one more bag will be left -- or there was
25 something else; I don't know. But he's having that bag with

S. Denghwal - Direct

1 him. Inside definitely the dollars were there.

2 Q. Okay. Sir, I'm going to play for you 1-6 A, call
3 24 FC 2.

4 (The audio recording was played.)

5 BY MR. CASEY:

6 Q. Sir, were you able to contact -- did the defendant permit
7 you to contact your family?

8 A. Yes, but -- but we continuously begged in front of other
9 pirates, not him only. We continuously begged in front of
10 all pirates to please allow us to make a phone call to our
11 house.

12 Q. When the defendant or other pirates allowed you,
13 permitted you, to call your family were you given
14 instructions on what to say?

15 A. Yes, sir. Yes, yes.

16 Q. Who gave you the instructions?

17 A. He only gave us the instructions.

18 Q. What kind of instructions were there?

19 A. The instructions were, first, "You have to be speaking in
20 English. Don't tell your family members that you are
21 spending a good life over here. You just tell them that you
22 will get tortured over here and all like these things. Then
23 your family will definitely put pressure on the company and
24 then maybe" -- his tactics, only. These are the tactics of
25 him.

S. Denghwal - Direct

1 Q. On September 9th, when you were being interrogated by the
2 defendant about the -- after being tortured and you were
3 being interrogated about the satellite phones, did he offer
4 you any sympathy?

5 A. Sympathy for who? Me? No way. From him there is no
6 sympathy. We are there only for one means -- money. You
7 know, they were continuously using us that way. There was no
8 sympathy. There was no sympathy, no sympathy.

9 Q. Thank you, sir.

10 MR. CASEY: Your Honor, if I could...

11 (There was a pause in the proceedings.)

12 BY MR. CASEY:

13 Q. Just to be clear, sir, on the phone calls when you would
14 call your family who coached you or gave you instructions to
15 tell you what to say over the telephone?

16 A. Regarding the instructions, sir?

17 Q. Yes. Well -- go ahead. I'm sorry.

18 A. He. He gave us the instructions.

19 Q. And he -- by "he" you mean the defendant. Is that
20 correct?

21 A. Yes, he, Shabin.

22 Q. All right. And when the defendant told you that, "If you
23 use the bathrooms outside we will kill you" --

24 A. Yes.

25 Q. -- who was he referring to? Who was the defendant

S. Denghwal - Cross

1 referring to?

2 A. "We" means this full community, full pirates gang, you
3 know. It's not just that he said, "Pirates will kill you,"
4 "We kill you."

5 Q. Okay. Thank you, sir.

6 MR. CASEY: Your Honor, I pass the witness.

7 THE COURT: Mr. Broccoletti.

8 CROSS-EXAMINATION

9 BY MR. BROCCOLETTI:

10 Q. Sir, once the ship was first taken there was an
11 English-speaking Somalian on board. Isn't that true?

12 A. Yes, sir.

13 Q. And what was his name; do you remember?

14 A. Sir, really, I was not remember the name of that guy.
15 But I can tell you the personality of this guy. Very thin
16 guy like this (indicating), had a hat, a cowboy hat.

17 Q. He only stayed for a few days, though?

18 A. A few days, few hours.

19 Q. And at some point Shibin came on board and told you what
20 his name was?

21 A. Yes.

22 Q. He told you his name was Shibin Ali?

23 A. Ali. I only remember the name Ali. After a few days
24 Shibin, but what I remember is his name was Ali.

25 Q. When did you hear the name Shibin?

S. Denghwal - Cross

1 A. After 10 or 5 days, after I saw the pirates, their
2 interactions and all.

3 Q. Did you call Shibin Ali?

4 A. No, at that point I used to call him "sir."

5 Q. All right. At any point did you call him Shibin?

6 A. I used to call him "sir."

7 Q. Describe him. What did he look like?

8 A. He was, you know, a very thin guy, looked like this one
9 (indicating), and very -- legs like this, also. No have big
10 belly and all.

11 Q. Now, between May, at the time the ship was first taken,
12 and September --

13 A. Yes, sir.

14 Q. -- was he the only negotiator on board?

15 A. Yes, sir.

16 Q. In September, though, another negotiator came on board by
17 the name of Looyan, correct?

18 A. Yes, sir.

19 Q. And didn't Looyan come on board on September 9th, right
20 when your torture started?

21 A. In this September month it's 9 or after. That's my
22 memory. Now I -- you know, this -- but after this episode
23 only he got promoted, and Looyan was on board in the month of
24 September.

25 Q. And isn't it true that when most of this torture was

S. Denghwal - Cross

1 imposed upon you, all of this torture was imposed upon you
2 for the month of September, that Looyan was the translator,
3 Looyan was the negotiator?

4 A. But we had no interaction between Looyan. We have no
5 direct interaction between Looyan. At that time my -- when
6 they torture me, the pirates, I had straight interaction
7 between him only. Not Looyan, him.

8 Q. So Looyan never did any of the translating during any of
9 these tortures?

10 A. No, sir.

11 Q. Even though he was the negotiator, he wasn't there?

12 A. No, he was the negotiator. I'm not saying he was not a
13 negotiator, and I'm not saying -- whether he's a part of
14 Somalia, how I know that? May I know him? May I know him?
15 Also, who is he? Where he's from? How many childrens he
16 have? May I know him? They are the pirates only.

17 Q. You also knew that there was an investor by the name of
18 Ali Ali.

19 A. Ali Ali, yes. His name is Ali, but my knowledge is it's
20 something like Ali Ali, like that.

21 Q. And did you meet him early on?

22 A. Pardon, sir?

23 Q. Sure. Did he come on board the ship early? When did
24 he --

25 THE COURT: Are you talking about in June, July or

S. Denghwal - Cross

1 August?

2 BY MR. BROCCOLETTI:

3 Q. Yes, sir. When did he come on board the ship?

4 A. Ali, sir?

5 Q. Correct.

6 A. Ali Ali's presence on board?

7 Q. "I am."

8 A. Yeah. When ship hijacked, after that, after some days
9 this man Ali, the financer, came on board, and then after he
10 go back, then again come back -- means it's not that way that
11 he came on in September or December or something else. He
12 came on board first when ship was hijacked, and then after
13 some days he came on again.

14 Q. He was on board when the torture began in September?

15 A. Yes, yes, yes.

16 Q. He's the one that ordered the torture?

17 A. How can I -- I don't know about that, what day the
18 decision, but they were sitting all together, all together,
19 and they were eating and laughing all together, and they were
20 definitely -- all of them, they planned this torture and all.

21 Q. Was it Ali's idea, the investor, to use the cable to tie
22 you up with?

23 A. Yes, sir, because he's roaming here and there in our
24 ship, in engine room, in mess room, with that cable tie, so
25 this is maybe his idea only.

S. Denghwal - Cross

1 Q. And I want to take you to September 9th.

2 A. Okay.

3 Q. At that point there was some talk to you and some
4 questions to you about the satellite connections. Isn't that
5 true?

6 A. Yes, sir.

7 Q. And you were interrogated by Budea and Nu?

8 A. Yes, sir.

9 Q. And both of those individuals were interrogating you?

10 A. Not directly interrogation. That interrogation is by him
11 only, not by them. They were standing there. The pirates
12 were standing there. They were continuously standing there
13 and watch that location, but the direct interaction between
14 Shibin and me only.

15 Q. All right. You're pointing at the defendant. He was
16 there?

17 A. Yeah, yeah, he was there.

18 Q. He was the one who was doing the translating for the
19 interrogation?

20 A. Yes.

21 Q. And he was there the whole time?

22 A. Yes.

23 Q. And was he there at the time the iron pipe was taken and
24 your thumb was hit?

25 A. Yes.

S. Denghwal - Cross

1 Q. He was there when you were struck with the pipe?

2 A. Yes, when Budea strike on my thumb he was there inside
3 that room. He was there.

4 Q. Do you recall speaking back on January 5th of 2011 to the
5 German authorities once the ship was released? Remember?

6 A. Yes.

7 Q. And do you recall that interview being done by video, and
8 do you recall that interview being done in English?

9 A. Yes.

10 Q. And during that interview you talked about Budea and Nu
11 interrogating you, correct?

12 A. Correct, but they are asking questions to him and he is
13 explaining them and between them. And sometimes they are
14 asking like this way (indicating) so we can't understand
15 that. They are asking something about me, and then he
16 explained them that this is a phone, this is how many
17 satellite connections you have. He was the only one who
18 asked us.

19 Q. Did you, in that interview on page 710 -- didn't you tell
20 the German authorities, about the thumb, "It was very painful
21 for me. And then afterwards, when that night interrogation
22 finished, they called that Ali Jama"?

23 A. Pardon? Pardon?

24 Q. Sure. I'll read it to you again, okay?

25 You told the German authorities in January of 2011

S. Denghwal - Cross

1 that they hurt your thumb. "It was very painful for me."

2 A. Yes.

3 Q. "And then afterwards, when that night interrogation
4 finished, they called that Ali Jama."

5 A. Oh, I'm not remembering that thing.

6 Q. I'm sorry? I couldn't understand you.

7 A. I'm not remembering that --

8 THE COURT: What is the question, is what he's
9 saying.

10 BY MR. BROCCOLETTI:

11 Q. The question is didn't you tell the German authorities in
12 January of 2011 that the interrogation had finished, the
13 beating had occurred, and then they went and called Shabin
14 after the interrogation?

15 A. Sir, for this particular thing I'm not very much sure
16 because it's a 2010 incident.

17 Q. And then you also told them, "Then Ali Jama came" --

18 THE COURT: Ask him the questions. Then if it's
19 contrary you have an absolute right to introduce the contrary
20 information.

21 MR. BROCCOLETTI: Yes, sir.

22 THE COURT: What you're doing now, Mr. Broccoletti,
23 is assuming that whatever is there was said. You've got to
24 ask him first.

25 MR. BROCCOLETTI: Yes, sir.

S. Denghwal - Cross

1 BY MR. BROCCOLETTI:

2 Q. Didn't you tell the German authorities that the
3 interrogation and the beating had finished and then they went
4 and called the defendant?

5 A. No --

6 THE COURT: Let me ask you a question first.

7 Did they call the defendant after the interrogation
8 was over?

9 THE WITNESS: That I'm saying now I am not
10 remembering now the -- that statement at all. I'm not saying
11 that I'm contradicting your statement, no.

12 BY MR. BROCCOLETTI:

13 Q. Looyan stayed on board the ship from September until
14 when?

15 A. See, Looyan was not staying on board the ship
16 continuously. For three days, five days, then he go back
17 again, then he come back. He was staying also with us on
18 board.

19 Q. And was Looyan the negotiator during that Black
20 September?

21 A. Yes, the month of September he was there.

22 Q. And was Looyan the translator during that month of Black
23 September?

24 A. Sir, please, at that month of September the interaction
25 after the torture and all is between Shibin Ali and other

S. Denghwal - Cross

1 crew members and myself also, not with Looyan. He was the
2 one main person.

3 Q. Looyan was more experienced, in your opinion, than
4 Shibin?

5 A. I can't say who is experienced and who is not.

6 Q. Did you tell the German authorities during that
7 conversation that Looyan was very, very --

8 A. Smart.

9 Q. I'm sorry?

10 A. Smart.

11 Q. Did you tell the German authorities in January of 2011 --
12 this is on page 726 -- that "Looyan is very, very much
13 experienced about this hijacking. He knows much, much, much
14 more, compared to Ali Jama"?

15 A. Yes, because this is my -- the conversation with the
16 pirates -- pirates always say, "Looyan for this ship, for
17 this ship, for this ship," but we don't know. So when they
18 ask about Looyan we explain them that this is -- we know by
19 the pirate knowledge only. But personally we know them -- we
20 never know them. They did that for this ship, they did that
21 for this ship...

22 MR. BROCCOLETTI: Thank you. No further questions.

23 MR. CASEY: No further questions.

24 THE COURT: You are instructed, sir, not to discuss
25 your testimony until this case is complete.

S. Denghwal - Cross

1 MR. CASEY: We would ask that this witness be
2 released.

3 THE COURT: All right, you -- may he be released,
4 Mr. Broccoletti?

5 MR. BROCCOLETTI: Yes, Your Honor.

6 THE COURT: All right. You may be released. Thank
7 you very much. You don't have to stay.

8

9 ***** ***** *****

10

11

12

13 CERTIFICATION

14

15 I certify that the foregoing is a correct transcript
16 of an excerpt from the record of proceedings in the
17 above-entitled matter.

18

19

20

21 s/s

22

Heidi L. Jeffreys

23

24

July 19, 2012

25

Date